REMARKS

By this Amendment, minor corrections have been made in the specification and in the abstract. These corrections, which also appear in the attached "Marked-Up Version to Show Changes Made", are self-explanatory and do not introduce new matter.

In addition to the amendments made in the specification and abstract, claims 33-50 have been cancelled and replaced with new claims 51-70. Thus, claims 51-70 are now pending in this application.

In the Office Action mailed on October 23, 2002, now-cancelled claim 33 was rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4, 877,134 (Klein). In addition, claims 34-50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Klein '134 patent in view of U.S. Patent No. 5,609,778 (Pulaski et al.). These rejections are respectfully traversed.

The Examiner correctly characterizes the Klein '134 patent as disclosing an arrangement in which test tubes 10 are identified by bar codes and/or alphanumeric codes which are applied before the test tubes are used to store samples. After a sample is placed within a given test tube, the identity of the sample is associated with the bar code or alphanumeric code identifying that particular test tube (see, generally, column 5, lines 13-55 of the '134 patent).

The Applicants agree that the Klein '134 patent is somewhat more relevant than the references previously relied upon by the Examiner, in that it discloses the use of an identifying code that initially identifies the test tube itself but is later associated with a sample that is placed into the tube. However, while the number of digits used in the bar codes of Klein's Fig. 4 suggests that a large number of individual test tubes could be uniquely identified, that is a matter of speculation since there is no statement in the '134 patent as to how many different bar codes are actually used. For all that appears, the bar codes (like the alphanumeric codes A1-A12 and H1-H12, which Klein seems to equate to the bar codes) may not be unique outside the confines of a given cassette 1 of test tubes 10 . Even if they are, there is no suggestion that the uniqueness of the bar codes is universal, in the sense that it is preserved across institutional or organizational boundaries. The

Klein '134 patent does not indicate, for example, whether the bar codes are applied by the manufacturer or by the end user, how the codes are assigned or determined, and so on.

Notwithstanding these deficiencies of the Klein '134 patent as applied against previous claims 31-50, the Applicants have replaced claims 31-50 with new claims 51-70 in an effort to expedite prosecution of the present application. New independent claim 51 introduces first and second databases for storing container information and sample information, respectively, with the universally unique identifier being associated with the information in both databases. The first and second databases are exemplified by the manufacturing and customer databases, respectively, illustrated in Fig. 6 of the present application. New claims 51-70 are fully supported by Fig. 6 and by the related discussion which appears in the specification at pages 21-22 and elsewhere. There is no mention of such first and second databases in the Klein '134 patent, nor would the use of such databases be necessary or inherent in the test tube identification scheme discussed in column 5 of the '134 patent.

The Examiner's reconsideration and withdrawal of the non-final rejection, and allowance of new claims 51-70, is respectfully requested in view of the amendments and remarks presented herein. Should the Examiner wish to discuss this application with the Applicants' representative, she is invited to contact the undersigned attorney at the local telephone number listed below.

Respectfully submitted,

John E. Holmes

John E. Holmes
Reg. No. 29,392
Attorney of Record

Roylance, Abrams, Berdo & Goodman, L.L.P
1300 19th Street, N.W., Suite 600
Washington, DC 20036
(202) 659-9076

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Marked-Up Version to Show Changes Made

Please rewrite the paragraph which appears at page 11, lines 12-19 of the specification to read as follows:

In one or more embodiments of the invention, the markings 24 define a surface or area having a specular reflectance which differs from that of a surrounding outer surface 22 of the container 24. The term [specular reflectance] "specular reflectance" refers to the characteristic of a material to reflect light from a source in a direct, rather than a diffuse manner. The terms "higher" or "greater" specular reflectance in relation to a surface mean that light is directly reflected to a greater degree by that surface than by a surface having a "lesser" or "lower" specular reflectance.

Please rewrite the abstract on page 31 of the application to read as follows:

A system and method for identifying a biological sample associated with a container is disclosed. A [universally unique-identifier] universally-unique identifier is associated with each container. In one or more embodiments, the identifier comprises one or more markings having a specular reflectance which differs from the specular reflectance of the outer surface of the container adjacent the markings. A detection apparatus detects the differences in specularly reflected light to identify the identifier associated with the container. The identifier is associated with certain information regarding the container and biological sample. From that point forward, any information about the contents of the container may be retrieved by searching on its container ID. Because the container ID is assured by its manufacturer to be universally-unique, the container and sample may move from one organization to another under the same identifier, and information about the contents of the container may be shared by querying on its container ID. Practically, the sample ID becomes [universally] universal by virtue of presenting a universally-understood search key usable by anyone who needs to process the container. By suitably restricting access to sensitive database fields, patient confidentiality may more easily be assured since the marking on the specimen does not reveal any such information.